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Attorneys for Plaintiff

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN FRANCISCO

COYNESS L. ENNIX JR., M.D., as an
individual and in his representative capacity
under Business & Professions Code § 17200 *et*
seq.,

Plaintiff,

v.

RUSSELL D. STANTEN, M.D., et al.,
Defendants.

Case No.: C 07-2486 WHA

**DECLARATION OF RACHEL J. SATER
IN SUPPORT OF ADMINISTRATIVE
MOTION TO REMOVE DOCUMENTS
INCORRECTLY FILED AND TO FILE
UNDER SEAL**

Date: August 16, 2007
Time: 8:00 a.m.
Dept: Ctrm. 9, 19TH Floor

Trial Date: TBA
Judge: Hon. William H. Alsup

I, Rachel J. Sater, hereby declare as follows:

1. I am an attorney admitted to practice before this Court. I am of counsel at Moscone, Emblidge & Quadra LLP, counsel for Plaintiff Coyness L. Ennix, Jr., M.D. I have personal knowledge of all matters set forth below and am competent to testify thereto.

2. Prior to filing their Special Motion to Strike, Defendants sought Plaintiff's agreement to the Stipulated Protective Order, which designates as "confidential" several categories of documents and information, including patient-identifying information, documents considered or produced in the course of the peer review, and the names of participants in the peer review process other than Individual Defendants. Plaintiff agreed to the Stipulation, and this Court approved it subject to stated conditions. True and correct copies of the Stipulated

1 Protective Order and the Order Approving Stipulated Protective Order Subject to Stated
2 Conditions are attached hereto as Exhibits A and B, respectively. When Defendants filed their
3 Special Motion to Strike, Defendants moved for an order allowing filing of substantial portions
4 of their documents under seal pursuant to these orders.

5 3. When Plaintiff filed his Opposition to Motion to Strike, counsel for Plaintiff
6 inadvertently failed to redact confidential portions of the following documents: Plaintiffs
7 Opposition to Motion to Strike, and the Declarations of Coyness L. Ennix Jr., M.D.; J. Nilas
8 Young, M.D.; Howard Barkan, DrPH; Richard E. Shaw; and John A. Etchevers, filed therewith.
9 The next day, counsel for Defendants alerted Plaintiff's counsel to this oversight. The following
10 business day, Plaintiff's counsel arranged for the temporary removal of the Ennix Declaration
11 from public access, having determined that it included information and documents identified as
12 "confidential" under the Stipulated Protective Order. The following day, Plaintiff's counsel
13 arranged for the temporary removal from public access of Plaintiff's Opposition to Motion to
14 Strike and the declarations of J. Nilas Young, M.D.; Howard Barkan, DrPH; Richard E. Shaw;
15 and John A. Etchevers, filed therewith, after determining that these documents and/or their
16 exhibits included information identified as "confidential" under the Stipulated Protective Order.
17 The Court's efilng service informed this office that an order from this Court would be needed to
18 remove the incorrectly filed documents permanently from the Court's files.

19 4. The portions of the documents Plaintiff seeks to file under seal include patient-
20 identifying information, the names of Medical Staff members who participated in the peer review
21 (with the exception of the Individual Defendants), and documents generated or considered as part
22 of the peer review, all information identified as "confidential" under the Stipulated Protective
23 Order. Plaintiff requests redaction of only narrowly-tailored portions of the documents that
24 contain such information.

25 5. I telephoned counsel for Defendants on Tuesday, July 17, 2007 to ask if
26 Defendants would stipulate to this motion. Counsel for Defendants declined to so stipulate, but
27 agreed that documents and portions thereof that are identified in the Stipulated Protective Order
28 as "confidential" should be filed under seal pursuant to that Order.

1 I declare under penalty of perjury under the laws of the United States that the foregoing is
2 true and correct.

3 DATED: July 19, 2007

_____/s/_____
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Rachel J. Sater
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